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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,181	09/11/2003	James M. Festa	142429	5805

7590 09/08/2005

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EXAMINER

BUGG, GEORGE A

ART UNIT PAPER NUMBER

2636

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,181

Applicant(s)

FESTA ET AL.

Examiner

George A. Bugg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5 and 8 is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 9-23 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 9-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The term "similar and/or dissimilar data" in claims 9, 10, and 17 is a relative term, which renders the claim indefinite. The term "similar and/or dissimilar data" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The term in question does not limit Applicant to any specific forms of data.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 2, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,938,472 to Yuen et al.

6. As for claim 1, Yuen discloses (column 2, lines 48-53) a communication device, shown in Figure 1 as element 2, which inherently contains a core module or processor of some kind. Elements 9 and 10 are disclosed as ports, connected to a common circuit board 14, or in electrical communication with the core module. Ports 9 and 10 are I/O ports. Additionally, anything connected to the circuit board 14, will be in electrical communication with the core module. Moreover, anything connected to either port 9 or 10 can be considered a peripheral, wherein a first peripheral, is removeably connected. Figure 2 and column 2, lines 54-61, disclose element 6, as an end cap. As can be seen with respect to Figure 2, the end cap 6 can be removed, so that it is no longer in contact with either port 9 or 10, which is where a first peripheral would be connected.

Therefore, a first end cap can be removeably connected from a first peripheral. While the Yuen reference does not specifically state that the system detects tampering with the first peripheral, Yuen does disclose (column 3, lines 57-65) that any attempt to remove end cap 6 is detected as a security breach, causing critical data to be destroyed. Applicant's Figure 1 shows that regardless of peripheral number, (i.e. 1 through N) tampering is detected when either end cap is removed. It is suspected that tampering with peripheral 1 through N is occurring, because an electrical connection between either end cap and the peripheral immediately adjacent to the removed end cap is broken, resulting in a security breach. Yuen is equivalent. Therefore, it would

have been obvious to one of ordinary skill in the art to incorporate peripheral tampering detection since peripherals are part of the total system circuitry.

7. As for claim 2, Yuen does disclose (column 3, lines 57-65) that any attempt to remove end cap 6 is detected as a security breach, causing critical data to be destroyed.

8. As for claim 6, Figure 1 of the Yuen reference discloses each end cap as element 6. Therefore, one of ordinary skill in the art would ascertain that both end caps, a first and a second, contain the same tamper detection circuitry, which is connected to circuit board 14, which electrically connects a second end cap to a core module, or processor.

Allowable Subject Matter

9. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed 06/24/2005 have been fully considered but they are not persuasive. The Examiner maintains his rejection. Explanation to follow.

11. Regarding applicant's arguments pertaining to use of the language "similar and/or dissimilar data" the use of this language creates no limit to what applicant's claims encompass. Applicant has failed to distinctly claim his invention, and despite his assertion, the form and content of the data being exchanged, are relevant to the patentability of the invention. It is understood that the configuration of the core module and the input/output module, is such that a plurality of peripherals may be communicated with, each having a unique data form, for the purpose of creating a more versatile security device. However, the use of the terms "similar and/or dissimilar" is ambiguous, and does not distinguish to one of ordinary skill, exactly what applicant is, or is not claiming. Claim limitations cannot be boundless. Correction and/or amendment is required.

12. While the examiner does not disagree with applicant's assertion that the peripherals may be tampered with by disconnecting them from ports 9 and 10, or hitting them with a hammer, it is the assertion of the Examiner that any attempt to remove the endcap 6 will result in tampering being detected, as shown in column 3, lines 57-65. Moreover, the Yuen reference does not teach that the endcap can be removed without disconnecting the peripherals, as applicant has stated. It is the position of the Examiner that tampering with the endcap, can be directly construed as tampering with communication device 2, however since the Examiner believes that the peripherals must be disconnected for the endcap to be removed, tampering with the peripherals is indirectly taught. Contrary to applicant's belief, the reference merely states that ports 9 and 10 are accessed through gaps 11. Yuen does not teach that the endcap 6 can be

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removed without disconnecting peripherals from ports 9 and 10. Therefore, tampering with the endcap is synonymous with tampering with the peripherals. It is the contention of the Examiner, that in its broadest interpretation, the recitations of claim 1 have been met.

Conclusion

13. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant should be aware that the lack of an art rejection, with regard to claims 9-23, is in no way an indication as to their allowability. These claims need to be amended and clarified before a proper action on the merits may be performed. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George A Bugg whose telephone number is (571)

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272-2998. The examiner can normally be reached on Monday-Thursday 9:00-6:30, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George A Bugg
Examiner
Art Unit 2636

September 2, 2005


JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600